

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

JANE DELOVSKY,

Civil Action File No.

Plaintiff,

v.

WAL-MART STORES EAST, LP  
AND JANE DOE

Defendants.

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**NOTICE OF REMOVAL**

COMES NOW WAL-MART STORES EAST, LP (pursuant to Consent Order Substituting Defendant of January 5, 2018), named Defendant in the above-captioned matter, by and through its counsel of record, within the time prescribed by law, and files this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff filed suit against Defendant WAL-MART STORES EAST, LP in the State Court of Gwinnett County, Georgia, which is within the Atlanta Division of this Court. 28 U.S.C.A. § 90 (a)(2). Said lawsuit is

styled as above and is numbered as Civil Action File No. 17-C-07154-2. Plaintiff's claims against Defendant include claims of negligence.

2.

Plaintiff filed the Complaint on or about November 20, 2017. Defendant WAL-MART STORES EAST, LP received service of summons and a copy of the Complaint on November 22, 2017. It was not apparent from Plaintiff's Complaint that the amount in controversy exceeded \$75,000.

3.

On January 11, 2018, Plaintiff's counsel emailed Defendant's counsel that Plaintiff was seeking in excessive of \$75,000, and that Defendant was entitled to remove this action. This was the first Defendant learned that the amount in controversy exceeded \$75,000. A true and correct copy of Plaintiff's counsel's email is attached hereto as Exhibit "A" and is incorporated herein by reference. Defendant WAL-MART STORES EAST, LP files this notice of Removal within thirty (30) days after receipt of Plaintiff's counsel's email that the amount in controversy exceeds \$75,000.

4.

Defendant Wal-Mart Stores, Inc. is a Delaware corporation with its principal place of business in the State of Arkansas, and it was not a citizen of the

State of Georgia at the time of or immediately prior to the filing and service of this lawsuit or at any time thereafter.

5.

Jane Delovksy is a citizen of the State of Georgia.

6.

Complete diversity of citizenship exists between Plaintiff and Defendant.

7.

The amount in controversy, exclusive of interest and costs, exceeds \$75,000.

8.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiff and Defendant.

9.

Pursuant to the provisions of 28 U.S.C. § 1446, Defendant has attached as Exhibit "B" copies of all the pleadings that were provided to and served upon Defendant, including copies of all pleadings that have been filed to date in the State Court of Gwinnett County, Georgia for the above-styled case.

10.

Pursuant to 28 U.S.C. § 1446, Defendant is not required to file a removal bond.

11.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

12.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the Superior Court of Gwinnett County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendant WAL-MART STORES EAST, LP prays that the above-captioned lawsuit be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

McLAIN & MERRITT, P.C.

/s/ Ernest L. Beaton, IV  
Ernest L. Beaton, IV  
Georgia Bar No. 213044  
Attorneys for Defendant

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ebeaton@mmatllaw.com

The undersigned counsel certifies that the foregoing Notice of Removal has been prepared with one of the font and point selections approved by the court in LR 5.1B.

/s/Ernest L. Beaton, IV  
Ernest L. Beaton, IV

**CERTIFICATE OF SERVICE**

This is to certify that on January 15, 2018, I electronically filed a **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

      /s/ Ernest L. Beaton, IV  
Ernest L. Beaton, IV  
Georgia State Bar No. 213044  
Attorneys for Defendant

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